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March 17, 2015

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**Via Federal Express**

Margaret Herring, Civil Investigator  
USEPA, Region 5  
Superfund Division  
Enforcement and Compliance Assurance Branch (SE-5J)  
77 West Jackson Boulevard  
Chicago, IL 60504-3590

US EPA RECORDS CENTER REGION 5



488476

Re: Response to Request for Information for the South Dayton Dump & Landfill Site  
in Moraine, Ohio (dated January 16, 2015)

Dear Ms. Herring

On behalf of Monsanto Company and Pharmacia LLC<sup>1</sup> (the "Companies"), I am responding to the above-referenced request for information (the "Request").<sup>2</sup>

On February 21, 2006, the Companies responded to an earlier request for information from USEPA (the "Earlier Request"). A copy of the Companies' response to the Earlier Request is included in Attachment B, along with other documents responsive to the current Request. While the Earlier Request focused on the connection to the South Dayton Dump & Landfill Site (the "Site"), the current Request asks more broad questions (e.g., "For any type of waste describe Respondent's contracts, agreements, or other arrangements for its disposal, treatment or recycling."). USEPA agreed to limit the scope of the current Request to 1941 to 1996 and to operations within a fifty (50) mile radius of the Site. This time frame eliminates any potential nexus between Monsanto Company and the Site, since Monsanto Company was incorporated in 2000. The current Request contains several questions that also were part of the Earlier Request. For responses to these duplicate questions, the Companies have provided only updated information and have not repeated the information contained in the earlier response, as USEPA directed in the current Request itself.

<sup>1</sup> The Companies' February 21, 2006 response to USEPA's General Notice of Potential Liability and Request for Information and the Companies' September 26, 2012 response to USEPA's General Notice of Potential Liability (incorporated by reference here) describe the corporate history and relationships relevant to this matter. On November 30, 2012, Pharmacia Corporation was converted to a limited liability company and changed its name to Pharmacia LLC.

<sup>2</sup> By email on February 11, 2015, Thomas Nash of USEPA confirmed that the Companies could have until March 17, 2015, to respond to this Request.

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As explained in the response to the Earlier Request, Pharmacia LLC, then operating with the Monsanto name, had two facilities that had a reasonable potential to have used the Site in the 1941 to 1996 timeframe due to their geographic proximity to the Site: Mound Lab and Dayton Lab. Dayton Lab was located at 1515 Nicholas Road, Dayton, Ohio, and Mound Lab was located at One Mound Road, Miamisburg, Ohio. From 1948 to 1988, Pharmacia LLC operated Mound Lab entirely under a contract with the Department of Energy (the "DOE"). Pharmacia LLC operated Dayton Lab from about 1936 to 1992, with some operations in the early years associated with the DOE contract. Pharmacia LLC has certain contractual and confidentiality obligations to DOE, and therefore the Companies again direct USEPA to the DOE<sup>3</sup> for information on Mound Lab or DOE operations during the early years of Dayton Lab. As with the response to the Earlier Request, the Companies have focused this response on the non-DOE operations of Dayton Lab and have not searched for responsive information regarding Mound Lab or the DOE contract operations of Dayton Lab.

In compiling the response to the Earlier Request, the only information the Companies found linking either of them to the Site was a secondary document suggesting that Pharmacia LLC sent materials to the Site in 1976 or 1977, but – significantly – these materials were not CERCLA hazardous substances.

After the response to the Earlier Request, discovery in private-party cost-recovery litigation produced other evidence of a connection between Pharmacia LLC and the Site. The new information was the deposition of Thomas Beal and documents produced as a part of Mr. Beal's testimony, which were corroborated to some extent by the depositions of Alan Wurstner and Richard Hart. Mr. Beal testified that in 1977 or 1978, Pharmacia LLC arranged for the shipment of small quantities of materials to the Site. Mr. Beal did not identify the exact substances involved but did indicate that they were not landfilled at the Site but rather were incinerated at the Site. The Companies are providing to USEPA the depositions of Mr. Beal, Mr. Wurstner, and Mr. Hart in Attachment B. Please note that contact with these deponents or any current or former employees of Pharmacia LLC or Monsanto Company listed in Attachment A should be made through the undersigned counsel.

The Companies object to the overly broad assumption of authority implicit in the Request, as well as the overly broad scope of the questions and the vague and confusing definitions and instructions included in the Request. The Request goes beyond the USEPA's authority under section 104(e) of CERCLA. Consistent with the objection, the Companies have

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<sup>3</sup> The Companies direct USEPA to Derrick Franklin, contracting officer for DOE, or his counsel Randy Tormey, Esq., U.S. Department of Energy, 175 Tri-County Parkway, Springdale, Ohio 45246-3222 (513) 246-0583.

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narrowed their responses to information that could have some nexus to the Site. Further, the Companies object to the extent that this Request seeks information that is protected by the attorney-client privilege or attorney work product protection. Subject to these objections and reserving rights of admissibility of evidence, the Companies provide responses to the Request in Attachment A.

In preparing this response, the Companies again searched corporate records for responsive information and did not find any information, beyond that summarized above, suggesting a connection to the Site. This additional search has reconfirmed that there is no basis for contending that either Pharmacia LLC or Monsanto Company have any potential liability for the Site under CERCLA. Monsanto Company did not exist at the time of the Site's operation, and thus it cannot be a potentially responsible party. Although Pharmacia LLC sent limited quantities of materials to the Site, there is no evidence showing that those materials were CERCLA hazardous substances and, in addition, the 1977/1978 shipments were incinerated, not landfilled.

Should you have any questions or concerns, please feel free to contact me directly.

Very truly yours,



Vicki J. Wright, Esq.

cc: Mary M. Shaffer, Esq., Monsanto Company  
Thomas Nash, Esq, USEPA

**Attachment A**  
**Response by Pharmacia LLC and Monsanto Company**  
**to USEPA's Request for Information dated January 16, 2015**

1. Identify all persons consulted in the preparation of the answers to these questions.

*Mary M. Shaffer, Assistant General Counsel, Monsanto Company.*

2. Identify all documents consulted, examined or referred to in the preparation of the answers to these questions, and provide copies of all such documents.

*The documents that the Companies identified as responsive to the Request are included in Attachment B.*

3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question or who may be able to provide additional responsive documents, identify such persons. Provide their current, or last known, address, telephone numbers, and e-mail address.

- *Thomas Beal, former employee of Pharmacia LLC*
- *Alan Wurstner, former employee of Pharmacia LLC*
- *Richard Hart, former employee of Pharmacia LLC*

*Other than these individuals, the Companies identified no additional responsive information related to the Site. Please note that contact with these individuals should be made through counsel as indicated in the cover letter attached hereto.*

4. Provide names, addresses, telephone numbers, and e-mail addresses of any individuals, including former and current employees, who may be knowledgeable about Respondent's operations and hazardous substances handling, storage and disposal practices.

*See response to questions #3 and #13.*

5. State the date(s) on which the Respondent sent, brought or moved drums and/or hazardous substances to the South Dayton Dump and Landfill (SDDL) Site and the names, addresses, telephone numbers, and e-mail addresses of the person(s) making arrangements for the drums and/or hazardous substances to be sent, brought or moved to the SDDL Site.

*Other than the information in the depositions, the Companies identified no additional responsive information related to the Site.*

6. Did Respondent haul or send materials to SDDL in vehicles it owned, leased or operated? If yes, during what time periods did this occur? If no, how did Respondent transport materials to SDDL? Identify the hauler(s) and provide the addresses, telephone numbers, and e-mail addresses of these entities.

*Other than the information in the depositions, the Companies identified no additional responsive information related to the Site.*

### **PERMITS/REGISTRATIONS**

7. List all federal, state and local permits and/or registrations and their respective permit numbers issued to Respondent for the transport and/or disposal of materials.

*Pharmacia LLC had the following for Dayton Lab:*

- *Open Burning Permit issued by the Regional Air Pollution Control Agency on January 13, 1977 (MONS001870);*
- *Open Burning Permit issued by the Regional Air Pollution Control Agency dated August 21, 1979 (MONS001873);*
- *USEPA Identification Number: OHD 004-855-292 (MONS001206);*
- *Hazardous Waste Facility Installation and Operation Permit (#05-57-0433) issued by the State of Ohio Hazardous Waste Facility Approval Board on December 27, 1981 (MONS001252-1262); and*
- *Hazardous Waste Management Permit issued by USEPA on July 30, 1984 (MONS001283-1298).*

*Pharmacia LLC had the following for the Site:*

- *Permit for Open Burning (#503) issued by Montgomery County Ohio General Health District undated (Beal Deposition, Exhibit 1).*

8. Which shipments or arrangements were sent under each permit? If what happened to the hazardous substances differed from what was specified in the permit, please state, to the best of your knowledge, the basis or reasons for such difference.

*Other than information in Mr. Beal's deposition, the Companies identified no additional responsive information related to the Site.*

9. Were all hazardous substances transported by licensed carriers to hazardous waste Treatment Storage and Disposal Facilities permitted by the U.S. EPA?

*The Companies identified no responsive information related to the Site.*

10. List all federal, state and local permits and/or registrations and their respective permit numbers issued for the transport and/or disposal of wastes.

*See response to question #7.*

11. Does your company or business have a permit or permits issued under Resource Conservation and Recovery Act? Does it have or has it ever had, a permit or permits under the hazardous substance laws of the State of Ohio? Does your company or business have an EPA Identification Number, or an identification number supplied by the State Environmental Protection Agency? Supply any such identification number(s) your company or business has.

*See response to question #7.*

12. Identify whether Respondent ever filed a Notification of Hazardous Waste Activity with the EPA or the corresponding agency or official of the State of Ohio, the date of such filing, the wastes described in such notice, the quantity thereof described in such notice, and the identification number assigned to such facility by EPA or the state agency or official.

*Pharmacia LLC submitted a "Notification of Hazardous Waste Activity" to USEPA on August 15, 1980 (MONS001139-1218, 1206). Aside from this, the Companies identified no additional responsive information related to the Site.*

**RESPONDENT'S DISPOSAL/TREATMENT/STORAGE/RECYCLING/SALE OF  
WASTE (INCLUDING BY-PRODUCTS)**

13. Identify all individuals who currently have and those who have had responsibility for Respondent's environmental matters (e.g. responsibility for the disposal, treatment, storage, recycling, or sale of Respondent's wastes). Also provide each individual's job title, duties, dates performing those duties, supervisors for those duties, current position or the date of the individual's resignation, and the nature of the information possessed by such individuals concerning Respondent's waste management. For each individual identified in response to this question provide the current or most recent known address, telephone number and e- mail address.

*As indicated in the documents in Attachment B, the following former employees of Pharmacia LLC may have had some responsibility for environmental matters at Dayton Lab:*

- *Thomas Beal*
- *Kathy Rabbitt*
- *Jeffrey Klieve*
- *Leslie Woods*
- *Dunny Toy*
- *Darrell Sevy*
- *Randall White*

*Please note that contact with these individuals should be made through counsel as indicated in the cover letter attached hereto.*

14. Describe the containers used to take any type of waste from Respondent's operation, including but not limited to:
- a. the type of container (e.g. 55 gal. drum, dumpster, etc.);
  - b. the colors of the containers;
  - c. any distinctive stripes or other markings on those containers;
  - d. any labels or writing on those containers (including the content of those labels);
  - e. whether those containers were new or used; and
  - f. if those containers were used, a description of the prior use of the containers.

*Mr. Beal testified to taking two partial pickup truck loads of 55-gallon drums from Dayton Lab to the Site in 1977 or 1978, drums which contained small, lab sized glass bottles packed in vermiculite, incinerating the contents of the bottles, and returning the drums to Dayton Lab. (Beal Deposition, pages 20-27.)*

*The response to the 2006 Request included a document indicating that less than 800 pounds of materials were shipped from Dayton Lab to the Site for landfilling in 1976/1977 in "100 lb sacks." The Companies identified no additional responsive information related to the Site.*

15. For any type of waste describe Respondent's contracts, agreements, or other arrangements for its disposal, treatment, or recycling. Provide copies of all documents relating to the transportation or disposal of said waste, including correspondence and manifests. Include all correspondence and records of communication between Respondent and Cyril Grillot, Kenneth Grillot, Alcine Grillot, or Horace Boesch, Sr.

*See response to question #14.*

16. Provide copies of such contracts and other documents reflecting such agreements or arrangements.
- g. State where Respondent sent each type of its waste for disposal, treatment, or recycling.
  - h. Identify all entities and individuals who picked up waste from Respondent or who otherwise transported the waste away from Respondent's operations (these companies and individuals shall be called "Waste Carriers" for purposes of this Information Request).

- i. If Respondent transported any of its wastes away from its operations, please so indicate and answer all questions related to "Waste Carriers" with reference to Respondent's actions.
- j. For each type of waste specify which Waste Carrier picked it up.
- k. for each type of waste, state how frequently each Waste Carrier picked up such waste.
- l. For each type of waste state the volume picked up by each Waste Carrier (per week, month, or year).
- m. For each type of waste state the dates (beginning & ending) such waste was picked up by each Waste Carrier.
- n. Provide copies of all documents containing information responsive to the previous seven questions.
- o. Describe the vehicles used by each Waste Carrier to haul away each type of waste including but not limited to:
  - i. the type of vehicle (e.g., flatbed truck, tanker truck, containerized dumpster truck, etc.);
  - ii. names or markings on the vehicles; and
  - iii. the color of such vehicles.
- j. Identify all of each Waste Carrier's employees who collected Respondent's wastes.
- k. Indicate the ultimate disposal/recycling/treatment location for each type of waste.
- l. Provide all documents indicating the ultimate disposal/recycling/treatment location for each type of waste.
- m. Describe how Respondent managed pickups of each waste, including but not limited to:
  - i. the method for inventorying each type of waste;
  - ii. the method for requesting each type of waste to be picked up;



- iii. the identity of (see Definitions) the waste carrier employee/agent contacted for pickup of each type of waste;
  - iv. the amount paid or the rate paid for the pickup of each type of waste;
  - v. the identity of (see Definitions) Respondent's employee who paid the bills; and
  - vi. the identity of (see Definitions) the individual (name or title) and company to whom Respondent sent the payment for pickup of each type of waste.
- n. Identify the individual or organization (i.e., the Respondent, the Waste Carrier, or, if neither, identify such other person) who selected the location where each of the Respondent's wastes were taken.
- o. State the basis for and provide any documents supporting the answer to the previous question.

*For questions #16, g – o, see response to question #14.*

- p. Describe all wastes disposed by Respondent into Respondent's drains including but not limited to:
- i. the nature and chemical composition of each type of waste;
  - ii. the dates on which those wastes were disposed;
  - iii. the approximate quantity of those wastes disposed by month and year;
  - iv. the location to which these wastes drained (e.g. on-site septic system, onsite storage tank, pre- treatment plant, Publicly Owned Treatment Works (POTW), etc.); and
  - v. whether and what pretreatment was provided.

*The Companies identified no information related to the Site.*

- q. Identify any sewage authority or treatment works to which Respondent's waste was sent.

*The Companies identified no information related to the Site.*

- r. If not already provided, specify the dates and circumstances when Respondent's waste was taken to the SDDL Site, and identify the companies or individuals who

brought Respondent's waste to the Site. Provide all documents which support or memorialize your response.

*See response to question #14.*

**RESPONDENT'S ENVIRONMENTAL REPORTING:**

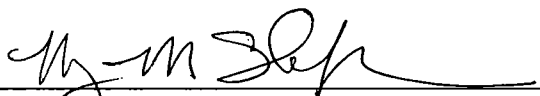
17. Provide all Resource Conservation and Recovery Act (RCRA) Identification Numbers issued to Respondent by EPA or a state for Respondent's operations.
18. Identify (see Definitions) all federal offices to which Respondent has sent or filed information about hazardous substance or hazardous waste.
19. State the years during which such information was sent/filed.
20. Identify (see Definitions) all state offices to which Respondent has sent or filed hazardous substance or hazardous waste information.
21. State the years during which such information was sent/filed.
22. List all federal and state environmental laws and regulations under which Respondent has reported to federal or state governments, including but not limited to: Toxic Substances Control Act, 15 U.S.C. Sections 2601 et seq., (TSCA); Emergency Planning and Community Right-to-Know Act, 42 U.S.C. Sections 1101 et seq., (EPCRA); and the Clean Water Act (the Water Pollution Prevention and Control Act), 33 U.S.C. Sections 1251 et seq.; Solid Waste and Infectious Waste Regulations, OAC 3745-27 (former rule EP-20); Licenses for Solid Waste, Infectious Waste Treatment, or Construction and Demolition Debris Facilities, OAC 3745-37 (former rule EP-33); Solid and Hazardous Wastes, ORC 3734-01 through 3734-11; Open Burning Standards, OAC 3745-19-03.
23. Identify the federal and state offices to which such information was sent.

*For questions 17 through 23, other than the response to question #7 and the information in Mr. Beal's deposition, the Companies identified no additional responsive information related to the Site*

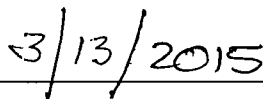
### Certification

I certify under penalty of law that this document and all attachments were prepared under by direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted.

Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.



*Mary M. Shaffer*  
Assistant General Counsel, Monsanto Company



Date

**Attachment B**  
**Responsive Documents**

Letter of Bruno E. Maier, Regional Air Pollution Control Agency, to Thomas Beal, Monsanto Research Corporation, dated January 13, 1977 enclosing an open burning permit valid for one week, enclosure not located (MONS001870).

Open Burning Permit issued by Regional Air Pollution Control Agency to Monsanto Research Corporation dated August 21, 1979 valid for August 28-30, 1979 (MONS001873).

Hazardous Waste Facility Installation and Operation Permit (#05-57-0433), issued by the State of Ohio Hazardous Waste Facility Approval Board on December 27, 1981 (MONS001252-1262).

Hazardous Waste Management Permit (EPA Identification Number OHD 004-855-292), issued by USEPA July 30, 1984 (MONS001283-1298).

Environmental Assessment Manual, Monsanto Agricultural Company, Dayton, Ohio Plant dated December 1991, Revision 4 (MONS001139-1218).

Letter of Mary M. Shaffer, Monsanto Company, to Fred R. Bartman, USEPA, dated February 21, 2006 (response to 2006 Request).

Deposition transcripts, with exhibits, of the following individuals: Alan Wurstner, Richard Hart and Thomas Beal.

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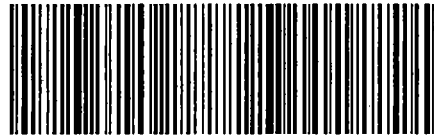
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